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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/687,459	DE JONG, EDUARD K.	
	Examiner	Art Unit	
	LUU PHAM	2437	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 April 2009.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-18,28-36,46-54 and 72-88 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 2-18,28-36,46-54 and 72-88 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ . |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :

01/08/2004, 04/13/2004, 04/20/2004, 06/27/2005, 07/17/2006, 12/04/2006, 01/16/2007, 04/17/2007, 07/30/2007, 04/07/2008, and 02/17/2009.

DETAILED ACTION

1. This Office Action is in response to the communications filed on 04/03/2009.
2. In response to the restriction requirement, the Applicant has elected species 2, Claims 2-18, 28-36, 46-54, and 72-88, without traverse for prosecution. Claims 2-18, 28-36, 46-54, and 72-88 have been examined and are pending in this application.

Claim Objections

3. **Claims 14, 18, 32, 36, 50, 54, 84, and 88 are objected to under 37 CFR 1.75(c)** because the acronym ‘HTTP’ is used without spelling out in full at its first occurrence in the claim. Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993);

In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 10, 12-14, and 74-84 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1, 7-9, and 64-71 of the U.S. Patent No. 7,398,557 (Application No. 10/687,217) in view of Buhse et al., (hereinafter “Buhse”), U.S. Patent Application Publication No. 2004/0024652, filed on January 29, 2003.

Instant Application 10/687,459	U.S. Patent No. 7,398,557 (Application No. 10/687,217)
Claim 10: A method for digital content access control, comprising:	Claim 1: A method for digital content access control, comprising:

<p>determining a digital content specification and associated authenticated rights locker access request;</p> <p>sending said authenticated rights locker access request and said digital content specification;</p> <p>receiving a new authenticated rights locker access request and a Web page with one or more clickable links in response to said sending, at least one of said one or more clickable links associated with an authenticated digital content request;</p> <p>receiving an indication of a user selection of one of said one or more clickable links;</p> <p>sending said new authenticated rights locker access request and an indication of the right associated with said one of said one or more clickable links to a rights locker provider; and</p> <p>receiving said digital content in response to said sending said new authenticated rights locker access request.</p>	<p>determining, on a user device, digital content to be made accessible via a rights locker wherein said rights locker comprises an entity, different from said user device, providing a description of a user's access rights for digital content and controlling access to the description;</p> <p>determining, on said user device, enrollment authentication data for use by a rights locker provider;</p> <p>sending, from said user device to said right locker provider for the rights locker, a rights locker enrollment request comprising a digital content request and said enrollment authentication data; and</p> <p>receiving, on said user device, an authenticated rights locker access request in response to said sending, said authenticated rights locker access request for subsequent use in accessing digital content associated with said rights locker.</p>
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Patent 7,398,557 does not explicitly disclose receiving an indication of a user selection of one of said one or more clickable links; sending said new authenticated rights locker access request and an indication of the right associated with said one of said one or more clickable links to a rights locker provider; and receiving said digital content in response to said sending said new authenticated rights locker access request.

However, Buhse discloses a method for distributing of digital products, including steps of receiving an indication of a user selection of one of said one or more clickable links (*pars. 0055-0063 and 0185-0190; Figs. 2C and 7C; the Consumer visits a retail website or a Rights Locker website to view the subscription plan (playlist) and selects tracks to download; the result returned is either in the form of links to retrieve the content, or proprietary order blocks, which are processed by the Content Manager on the client's equipment*); sending said new authenticated rights locker access request and an indication of the right associated with said one of said one or more clickable links to a rights locker provider (*pars. 0047-0062, 0064-0071, 0155-0161, 0169-0172, and ; Figs. 2A-2C and 6A; The OMS 105 updates the RLC 104 with the new content/rights (step 8a); the OMS 105 sends a rights update request to the Rights Locker 104 and sends a purchase response to the Distributor, and then receives rights status responses; the Consumer visits a retail website or a Rights Locker website to view the subscription plan (playlist) and selects tracks to download*); and receiving said digital content in response to said sending said new authenticated rights locker access request (*pars. 0055-0063, 0155-0161, 0169-0172, and 0185-0190; Figs. 2C and 7C; FIG. 7C; OMS creates a new license using the required DRM product, and returns the result to the user; the Consumer visits a retail website or a*

Rights Locker website to view the subscription plan (playlist) and selects tracks to download).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Buhse with the method and system of patent 7,398,557 to include steps of receiving an indication of a user selection of one of said one or more clickable links; sending said new authenticated rights locker access request and an indication of the right associated with said one of said one or more clickable links to a rights locker provider; and receiving said digital content in response to said sending said new authenticated rights locker access request to provide users with a means for distributing, selling, and tracking of digital products (*Buhse: pars. 0002 and 0006*).

Claims 12-14 are similar in scope to claims 7-9 of the Patent 7,398,557 respectively, and are therefore rejected on the ground of nonstatutory obviousness-type double patenting over claim 7-9 of the U.S. Patent No. 7,398,557 (Application No. 10/687,217) in view of Buhse et al., (US 2004/0024652), for the same reasons.

Claims 74-81 are similar in scope to claims 64-71 of the Patent 7,398,557 respectively, and are therefore rejected on the ground of nonstatutory obviousness-type double patenting over claim 64-81 of the U.S. Patent No. 7,398,557 (Application No. 10/687,217) in view of Buhse et al., (US 2004/0024652), for the same reasons.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. **Claims 10-18 and 46-54 are rejected under 35 U.S.C. 101** as being directed to non-statutory subject matter.

- **Regarding claim 10,** the claim invention is not directed to eligible subject matter under 35 U.S.C. § 101 in view of ***In Re Bilski***, 88 USPQ2d 1385. While the claims recite a series of steps or acts to be performed, a statutory “process” under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing (See ***In Re Bilski***, 88 USPQ2d 1385; see also ***Diamond v. Diehr***, 450 U.S. 175, 184 (1981); ***Parker v. Flook***, 473 U.S. 584, 588 n.9 (1978); ***Gottschalk v. Benson***, 409 U.S. 63, 70 (1972); ***Cochrane v. Deener***, 94 U.S. 780, 787-88 (1976)); The instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter. The method claimed including steps of “*determining a digital content*,” “*sending said authentication rights locker access request*,” “*receiving a new authenticated rights locker access request*,” “*sending said new authenticated rights locker access request*,” and “*receiving said digital content*” is broad enough that the claim could be completely performed mentally, verbally or without a machine nor is any transformation apparent; Therefore, the claimed invention is directed to non-statutory subject matter.

- **Regarding claims 11-14**, claims 11-14 are also rejected under 35 USC 101 as being directed to non-statutory subject matter for the same reasons.
- **Regarding claim 15**, the claim invention is not directed to eligible subject matter under 35 U.S.C. § 101 in view of *In Re Bilski*, 88 USPQ2d 1385. While the claims recite a series of steps or acts to be performed, a statutory “process” under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing (See *In Re Bilski*, 88 USPQ2d 1385; see also *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 473 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1976)); The instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter. The method claimed including steps of “*receiving a first authenticated rights locker access request,*” “*validating said first authenticated rights locker access request,*” “*creating a web page,*” “*sending a second authenticated rights locker access request,*” “*receiving and validating said second authenticated rights locker access request,*” “*obtaining an authenticated digital content request,*” and “*sending said authenticated digital content request*” is broad enough that the claim could be completely performed mentally, verbally or without a machine nor is any transformation apparent; Therefore, the claimed invention is directed to non-statutory subject matter.
- **Regarding claims 16-18**, claims 16-18 are also rejected under 35 USC 101 as being directed to non-statutory subject matter for the same reasons.

- **Regarding claims 46,** the claims are not directed to eligible subject matter.

Although the preamble of the claim recites “*an apparatus*,” the body of the claim does not positively recite any elements of hardware. The claim merely recites “*means for determining*,” “*means for sending*,” and “*means for receiving*.” In light of the specification, (*pars. 0100 and 0116*), and claim 28, the aforementioned “*means for*” could be implemented in software, which is non-statutory subject matter. Therefore, the claim is directed to non-statutory subject matter. The mere recitation of the machine in the preamble with an absence of a machine in the body of the claim fails to make the claim statutory under 35 USC 101.

- **Regarding claims 47-50,** claims 47-50 are also directed to non-statutory subject matter for the same reasons.

- **Regarding claims 51,** the claims are not directed to eligible subject matter.

Although the preamble of the claim recites “*an apparatus*,” the body of the claim does not positively recite any elements of hardware. The claim merely recites “*means for receiving*,” “*means for validating*,” “*means for creating*,” “*means for obtaining*,” and “*means for sending*.” In light of the specification, (*pars. 0100 and 0116*), and claim 33, the aforementioned “*means for*” could be implemented in software, which is non-statutory subject matter. Therefore, the claim is directed to non-statutory subject matter. The mere recitation of the machine in the preamble with an absence of a machine in the body of the claim fails to make the claim statutory under 35 USC 101.

- **Regarding claims 52-54,** claims 52-54 are also directed to non-statutory subject matter for the same reasons.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. **Claims 46-54 are rejected under 35 U.S.C. 112, second paragraph,** as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- **Regarding claims 46 and 54,** claims 46 and 54 have been found invalid as indefinite because the claims recite “*means for*” languages and there is no structure disclosed in the specification. *“If there is no structure in the specification corresponding to the means-plus-function limitation in the claims, the claims will be found invalid as indefinite.” Biomedino, LLC vs. Waters Technology Corp., 490 F.3d 946, 950 (Fed. Cir. 2007)*

- **Regarding claims 47-50 and 52-54,** claims 47-50 and 52-54 are dependent on either claim 46 or claim 51, and therefore inherit the 35 U.S.C 112, second paragraph issues of the independent claims.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. **Claims 10-11, 14-15, 18, 28-29, 32-33, 36, 46-47, 50-51, 54, 72-73, 84-85, and 88 are rejected under 35 U.S.C. 102(e)** as being anticipated by Buhse et al., (hereinafter “Buhse”), U.S. Patent Application Publication No. 2004/0024652, filed on January 29, 2003.

- **Regarding claim 10,** Buhse discloses a method for digital content access control (*pars. 0028-0036; Fig. 1A*), comprising:

determining a digital content specification and associated authenticated rights locker access request (*pars. 0029-0033 and 0064-0072; the Offer Catalog Component 102, accessible by customers, provides customers with a listing of the digital products available from each client; the Consumer logs in using the promotion ID and selects the product to be downloaded and submits the request for content; see also pars. 0155-0161 and 0175-0180; Figs. 6A and 7A; the Rights Locker Component (RLC) 104 maintains a Rights Database (RDB) 602, which contains rights information for each Consumer; the stored information can include products purchased and rights granted*);

sending said authenticated rights locker access request and said digital content specification (*pars. 0029-0033, 0064-0072, 0102-0110, and 0124-0135; Figs. 2-7; in response to the client or prescribed directions, the Rights Locker Component 104 issues purchased products to the customer; the client can transfer rights for consumers to use a digital product to wireless, handheld, cable, or other devices*);

receiving a new authenticated rights locker access request and a Web page with one or more clickable links in response to said sending, at least one of said one or more clickable links associated with an authenticated digital content request (*pars. 0047-0062, 0064-0071, 0155-0161, 0169-0172, and ; Figs. 2A-2C and 6A; The OMS 105 updates the RLC 104 with the new content/rights (step 8a); the OMS 105 sends a rights update request to the Rights Locker 104 and sends a purchase response to the Distributor, and then receives rights status responses; the Consumer visits a retail website or a Rights Locker website to view the subscription plan (playlist) and selects tracks to download*);

receiving an indication of a user selection of one of said one or more clickable links (*pars. 0055-0063 and 0185-0190; Figs. 2C and 7C; the Consumer visits a retail website or a Rights Locker website to view the subscription plan (playlist) and selects tracks to download; the result returned is either in the form of links to retrieve the content, or proprietary order blocks, which are processed by the Content Manager on the client's equipment*);

sending said new authenticated rights locker access request and an indication of the right associated with said one of said one or more clickable links to a rights locker provider (*pars. 0047-0062, 0064-0072, 0155-0161, 0169-0172, and ; Figs. 2A-2C and 6A;*

The OMS 105 updates the RLC 104 with the new content/rights (step 8a); the OMS 105 sends a rights update request to the Rights Locker 104 and sends a purchase response to the Distributor, and then receives rights status responses; the Consumer visits a retail website or a Rights Locker website to view the subscription plan (playlist) and selects tracks to download); and

receiving said digital content in response to said sending said new authenticated rights locker access request (*pars. 0055-0063, 0155-0161, 0169-0172, and 0185-0190; Figs. 2C and 7C; FIG. 7C; OMS creates a new license using the required DRM product, and returns the result to the user; the Consumer visits a retail website or a Rights Locker website to view the subscription plan (playlist) and selects tracks to download*).

- **Regarding claim 11,** Buhse discloses the method of claim 10 wherein said method further comprises determining one or more delivery parameters, said one or more delivery parameters indicating where said digital content should be sent, a delivery mechanism, or both (*pars. 0064-0072 and 0185-0190; Figs. 2C and 7C; the Consumer is prompted to download software needed to play the content; the result returned is either in the form of links to retrieve the content, or proprietary order blocks, which are processed by the Content Manager on the client's equipment*); and

 said sending further comprises sending said one or more delivery parameters (*pars. 0064-0072 and 0185-0190; Figs. 2C and 7C; the result returned is either in the form of links to retrieve the content, or proprietary order blocks, which are processed by the Content Manager on the client's equipment*).

- **Regarding claim 14,** Buhse discloses the method of claim 10 wherein said new authenticated rights locker access request is encapsulated in an HTTP Response message (*pars. 0040-0043, 0053, and 0062; XML messaging via http can be used to enable communication and easy integration with existing systems; the Distributor website receives the purchase response*).
- **Regarding claim 15,** Buhse discloses a method for digital content access control (*pars. 0028-0036; Fig. 1A*), comprising:
 - receiving a first authenticated rights locker access request and a digital content specification (*pars. 0029-0033 and 0064-0072; the Offer Catalog Component 102, accessible by customers, provides customers with a listing of the digital products available from each client; the Consumer logs in using the promotion ID and selects the product to be downloaded and submits the request for content; see also pars. 0155-0161 and 0175-0180; Figs. 2C, 6A and 7A-7C; catalog request and purchase request*);
 - validating said first authenticated rights locker access request (*pars. 0029-0033 and 0064-0072; the Consumer logs in using the promotion ID and selects the product to be downloaded and submits the request for content*); and
 - if said validating indicates said first authenticated rights locker access request is valid (*pars. 0064-0072, 0155-0161 and 0175-0180; Figs. 2C and 7A-7C; catalog request and purchase request; after successfully logged in using the promotion ID, the Consumer can selects the product to be downloaded and submits the request for content*),
 - creating a Web page with one or more clickable links that comprise an authenticated digital content request for use in accessing digital content stored by a digital

content repository (*pars. 0047-0062, 0064-0071, 0155-0161, 0169-0172, and ; Figs. 2A-2C and 6A; The OMS 105 updates the RLC 104 with the new content/rights (step 8a); the OMS 105 sends a rights update request to the Rights Locker 104 and sends a purchase response to the Distributor, and then receives rights status responses; the Consumer visits a retail website or a Rights Locker website to view the subscription plan (playlist) and selects tracks to download*);

sending a second authenticated rights locker access request and said Web page; receiving and validating said second authenticated rights locker access request; obtaining an authenticated digital content request if said second authenticated rights locker access request is valid (*pars. 0047-0062, 0064-0071, 0155-0161, 0169-0172, and ; Figs. 2A-2C and 6A; The OMS 105 updates the RLC 104 with the new content/rights (step 8a); the OMS 105 sends a rights update request to the Rights Locker 104 and sends a purchase response to the Distributor, and then receives rights status responses; the Consumer visits a retail website or a Rights Locker website to view the subscription plan (playlist) and selects tracks to download*); and

sending said authenticated digital content request to a digital content repository (*pars. 0055-0063, 0155-0161, 0169-0172, and 0185-0190; Figs. 2C and 7C; FIG. 7C; OMS creates a new license using the required DRM product, and returns the result to the user; the Consumer visits a retail website or a Rights Locker website to view the subscription plan (playlist) and selects tracks to download*).

- **Regarding claim 18,** claim 18 is similar in scope to claim 14, and is therefore rejected under similar rationale.

- **Regarding claims 28-29**, claims 28-29 are similar in scope to claims 10-11 respectively, and are therefore rejected under similar rationale.
- **Regarding claims 32-33**, claims 32-33 are similar in scope to claims 14-15 respectively, and are therefore rejected under similar rationale.
- **Regarding claim 36**, claim 36 is similar in scope to claim 14, and is therefore rejected under similar rationale.
- **Regarding claims 46-47**, claims 46-47 are similar in scope to claims 10-11 respectively, and are therefore rejected under similar rationale.
- **Regarding claims 50-51**, claims 50-51 are similar in scope to claims 14-15 respectively, and are therefore rejected under similar rationale.
- **Regarding claim 54**, claim 54 is similar in scope to claim 14, and is therefore rejected under similar rationale.
- **Regarding claims 72-73**, claims 72-73 are similar in scope to claims 10-11 respectively, and are therefore rejected under similar rationale.
- **Regarding claims 84-85**, claims 84-85 are similar in scope to claims 14-15 respectively, and are therefore rejected under similar rationale.
- **Regarding claim 88**, claim 88 is similar in scope to claim 14, and is therefore rejected under similar rationale.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claims 12-13, 16-17, 30-31, 34-35, 48-49, 52-53, 82-83, and 86-87 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Buhse et al., (hereinafter “Buhse”), U.S. Patent Application Publication No. 2004/0024652, filed on January 29, 2003, in view of Jiang et al., (hereinafter “Jiang”), U.S. Patent No. 7,136,631, filed on November 09, 2000.

- **Regarding claim 12,** Buhse discloses the method of claim 10.

Buhse does not explicitly disclose storing at least part of said new authenticated rights locker access request in a bookmark on a user device.

However, in an analogous art, Jiang discloses a method for accessing to information networks, including steps of storing at least part of said new authenticated rights locker access request in a bookmark on a user device (*Jiang: col. 11, lines 59-62; the preference profile contains users' preferences with regard to the services and devices.*

Preferences comprise device activation times, bookmarks, and notification preferences).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Jiang with the method and system of Buhse to include steps of storing at least part of said new authenticated rights locker

access request in a bookmark on a user device to provide users with a method for mobile station users to request user-dependent data without the need for entering user identification information (*Jiang: col. 5, lines 38-44*).

- **Regarding claim 13,** Buhse discloses the method of claim 10.

Buhse does not explicitly disclose said new authenticated rights locker access request is embedded in a Web cookie.

However, in an analogous art, Jiang discloses a method for accessing to information networks, wherein new authenticated rights locker access request is embedded in a Web cookie (*Jiang: col. 3, lines 33-43; if the user's authentication information is contained in the cookie, the user is automatically granted access to the web site, as customized by the user, without further interaction*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Jiang with the method and system of Buhse wherein new authenticated rights locker access request is embedded in a Web cookie to provide users with a method for mobile station users to request user-dependent data without the need for entering user identification information (*Jiang: col. 5, lines 38-44*).

- **Regarding claims 16-17,** claims 16-17 are similar in scope to claims 12-13 respectively, and are therefore rejected under similar rationale.
- **Regarding claims 30-31,** claims 30-31 are similar in scope to claims 12-13 respectively, and are therefore rejected under similar rationale.

- **Regarding claims 34-35**, claims 34-35 are similar in scope to claims 12-13 respectively, and are therefore rejected under similar rationale.
- **Regarding claims 48-49**, claims 48-49 are similar in scope to claims 12-13 respectively, and are therefore rejected under similar rationale.
- **Regarding claims 52-53**, claims 52-53 are similar in scope to claims 12-13 respectively, and are therefore rejected under similar rationale.
- **Regarding claims 82-83**, claims 82-83 are similar in scope to claims 12-13 respectively, and are therefore rejected under similar rationale.
- **Regarding claims 86-87**, claims 86-87 are similar in scope to claims 12-13 respectively, and are therefore rejected under similar rationale.

12. **Claims 74-81 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Buhse et al., (hereinafter “Buhse”), U.S. Patent Application Publication No. 2004/0024652, filed on January 29, 2003, in view of Mukherjee et al., (hereinafter “Mukherjee”), U.S. Patent Application Publication No. 2003/0073440, filed on June 25, 2002.

- **Regarding claim 74**, Buhse discloses the apparatus of claim 72. Buhse does not explicitly disclose said apparatus comprises a smart card. However, in an analogous art, Mukherjee discloses a method for detecting and transport dynamic information, wherein said apparatus comprises a smart card (*Mukherjee: pars. 0054-0058 and 0133*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Jukherjee with the method and system of Buhse wherein said apparatus comprises a smart card to provide users with a means for detecting and transporting dynamic presence information over a wireless and wireline communication (*Jukherjee: par. 0009*).

- **Regarding claim 75,** Buhse discloses the apparatus of claim 74.

Buhse does not explicitly disclose said smart card comprises a Java Card TM technology-enabled smart card.

However, in an analogous art, Mukherjee discloses a method for detecting and transport dynamic information, wherein said smart card comprises a Java Card TM technology-enabled smart card (*Mukherjee: pars. 0054-0058 and 0133*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Jukherjee with the method and system of Buhse wherein said smart card comprises a Java Card TM technology-enabled smart card to provide users with a means for detecting and transporting dynamic presence information over a wireless and wireline communication (*Jukherjee: par. 0009*).

- **Regarding claim 76,** Buhse discloses the apparatus of claim 74.

Buhse does not explicitly disclose said smart card comprises a CDMA (Code Division Multiple Access) technology-enabled smart card.

However, in an analogous art, Mukherjee discloses a method for detecting and transport dynamic information, wherein said smart card comprises a CDMA (Code

Division Multiple Access) technology-enabled smart card (*Mukherjee: pars. 0054-0058 and 0133*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Jukherjee with the method and system of Buhse wherein said smart card comprises a CDMA (Code Division Multiple Access) technology-enabled smart card to provide users with a means for detecting and transporting dynamic presence information over a wireless and wireline communication (*Jukherjee: par. 0009*).

- **Regarding claim 77**, Buhse discloses the apparatus of claim 74.

Buhse does not explicitly disclose said smart card comprises a SIM (Subscriber Identity Module) card.

However, in an analogous art, Mukherjee discloses a method for detecting and transport dynamic information, wherein said smart card comprises a SIM (Subscriber Identity Module) card (*Mukherjee: pars. 0054-0058 and 0133*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Jukherjee with the method and system of Buhse wherein said smart card comprises a SIM (Subscriber Identity Module) card to provide users with a means for detecting and transporting dynamic presence information over a wireless and wireline communication (*Jukherjee: par. 0009*).

- **Regarding claim 78**, Buhse discloses the apparatus of claim 74.

Buhse does not explicitly disclose said smart card comprises a WIM (Wireless Interface Module).

However, in an analogous art, Mukherjee discloses a method for detecting and transport dynamic information, wherein said smart card comprises a WIM (Wireless Interface Module) (*Mukherjee: pars. 0054-0058 and 0133*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Jukherjee with the method and system of Buhse wherein said smart card comprises a WIM (Wireless Interface Module) to provide users with a means for detecting and transporting dynamic presence information over a wireless and wireline communication (*Jukherjee: par. 0009*).

- **Regarding claim 79,** Buhse discloses the apparatus of claim 74.

Buhse does not explicitly disclose said smart card comprises a USIM (Universal Subscriber Identity Module).

However, in an analogous art, Mukherjee discloses a method for detecting and transport dynamic information, wherein said smart card comprises a USIM (Universal Subscriber Identity Module) (*Mukherjee: pars. 0054-0058 and 0133*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Jukherjee with the method and system of Buhse wherein said smart card comprises a USIM (Universal Subscriber Identity Module) to provide users with a means for detecting and transporting dynamic presence information over a wireless and wireline communication (*Jukherjee: par. 0009*).

- **Regarding claim 80,** Buhse discloses the apparatus of claim 74.

Buhse does not explicitly disclose said smart card comprises a UIM (User Identity Module).

However, in an analogous art, Mukherjee discloses a method for detecting and transport dynamic information, wherein said smart card comprises a UIM (User Identity Module) (*Mukherjee: pars. 0054-0058 and 0133*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Jukherjee with the method and system of Buhse wherein said smart card comprises a UIM (User Identity Module) to provide users with a means for detecting and transporting dynamic presence information over a wireless and wireline communication (*Jukherjee: par. 0009*).

- **Regarding claim 81,** Buhse discloses the apparatus of claim 74.

Buhse does not explicitly disclose said smart card comprises a R-UIM (Removable User Identity Module).

However, in an analogous art, Mukherjee discloses a method for detecting and transport dynamic information, wherein said smart card comprises a R-UIM (Removable User Identity Module) (*Mukherjee: pars. 0054-0058 and 0133*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Jukherjee with the method and system of Buhse wherein said smart card comprises a R-UIM (Removable User Identity Module) to provide users with a means for detecting and transporting dynamic presence information over a wireless and wireline communication (*Jukherjee: par. 0009*).

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent Publication No. US 2003/0233462 by Chien.

U.S. Patent Publication No. US 2002/0152163, by Bezos et al.

U.S. Patent Publication No. US 2002/0190876, by Lai et al.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luu Pham whose telephone number is 571-270-5002. The examiner can normally be reached on Monday through Friday, 7:30 AM - 5:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel L. Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Application/Control Number: 10/687,459
Art Unit: 2437

Page 25

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